

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

FRIDAY, THE 7TH SEPTEMBER 2007 / 16TH BHADRA 1929

WP(C).No. 3512 of 2007(R)

OS.78/2002 of II ADDL.SUB COURT,TRIVANDRUM
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PETITIONER:

K. JOSEPH EASSO, S/O.J.JOSEPH,
T.C.2/2166, ADARSH NAGAR, PATTOM,
THIRUVANANTHAPURAM.

BY ADV. SRI.M.BALAGOVINDAN
SRI.SASITH PANICKER

RESPONDENTS:

OMANA MATHAI, W/O.M.K.THOMAS,
T.C.2/2166, ADARSH NAGAR, PATTOM,
THIRUVANANTHAPURAM.

BY ADV. SRI.MATHEW SEBASTIAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 07/09/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

APPENDIX

Ext. P1 true copy of the order of injunction issued to the respondent by the sub court, Thiruvananthapuram along with the report of the officer of the court.

Ext.P2 true copy of the judgment in O.S.78/2002 of the 2nd Addl. Sub Court, Thiruvananthapuram.

Ext.P3 true copy of the order in I.A.4909/2002 of the 2nd Addl. Sub Court, Thiruvananthapuram.

Ext.P4 true copy of the affidavit sworn by the respondent for condonation of delay dt. 27.6.2005.

Ext.P5 true copy of the order condoning the delay in I.A. 2453/2005 in O.S. 78/2002 of the 2nd Addl. Sub Court, Thiruvananthapuram.

Ext.P6 true copy of the order allowing the I.A. 2452/2005 of the 2nd Addl. Sub Court, Thiruvananthapuram dt. 12.12.2006.

Ext.P7 true copy of the sale deed executed through the court in 2004.

M.N.Krishnan, J.

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W.P(C).No.3512 of 2007

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Dated this the 7th day of September, 2007.

JUDGMENT

This Writ Petition is filed challenging the orders of the Subordinate Judge, Thiruvananthapuram in I.A.No.2453 of 2005 and I.A.No.2452 of 2005 in O.S.No.78 of 2002. Respondents served but did not appear. The writ petitioner moved an application to set aside ex parte decree with a petition to condone the delay of 780 days in filing the petition. The learned Subordinate Judge by a one line order, had condoned the delay as well as set aside the ex parte decree.

2. The Apex Court as well as this Court on so many occasions had cautioned the courts below that orders can be brief, but not blank. Here, there is absolutely no reason given by the learned single Judge, especially when there is inordinate delay of 780 days in filing the application. Therefore, the order suffers from serious infirmity and therefore, it is set aside and the

matter is remitted back to the trial court for fresh disposal of the I.As. after affording opportunity to both sides to adduce evidence in support of their respective contentions. Since the respondent in the Writ Petition had not appeared before this Court, the court shall give intimation about the same to the counsel who had appeared on the previous occasion. Petitioner is directed to appear before the court below on 23.10.2007.

Writ Petition is disposed of as above.

M.N.Krishnan,
Judge.